

more likely to adhere to regulations while being monitored, the average number of provisional ballots should be higher in monitored precincts than in unmonitored precincts. If monitors cause polling station officials to adhere more closely to regulations, then there should be fewer complaints (in general) about monitored than unmonitored precincts (this could also be reversed if monitors made voters more likely to complain).

Again, random assignment controls for all of the other factors that otherwise influence these variables.

One of the downsides of this approach is it does not get at some forms of fraud, e.g. absentee ballot fraud; those would have to be analyzed separately

7) Another political scientist recommends conducting an analysis of vote fraud claims and purging of registration rolls by list matching. Allegations of illegal voting often are based on matching of names and birth dates. Alleged instances of double voting are based on matching the names and birth dates of persons found on voting records. Allegations of ineligible felon (depending on state law), deceased, and of non-citizen voting are based on matching lists of names, birth dates, and sometimes addresses of such people against a voting records. Anyone with basic relational database skills can perform such matching in a matter of minutes.

However, there are a number of pitfalls for the unwary that can lead to grossly over-estimating the number of fraudulent votes, such as missing or ignored middle names and suffixes or matching on missing birth dates. Furthermore, there is a surprising statistical fact that a group of about three hundred people with the same first and last name are almost assured to share the exact same birth date, including year. In a large state, it is not uncommon for hundreds of Robert Smiths (and other common names) to have voted. Thus, allegations of vote fraud or purging of voter registration rolls by list matching almost assuredly will find a large proportion of false positives: people who voted legally or are registered to vote legally.

Statistics can be rigorously applied to determine how many names would be expected to be matched by chance. A simulation approach is best applied here: randomly assign a birth date to an arbitrary number of people and observe how many match within the list or across lists. The simulation is repeated many times to average out the variation due to chance. The results can then be matched back to actual voting records and purge lists, for example, in the hotly contested states of Ohio or Florida, or in states with Election Day registration where there are concerns that easy access to voting permits double voting. This analysis will rigorously identify the magnitude alleged voter fraud, and may very well find instances of alleged fraud that exceed what might have otherwise happened by chance.

This same political scientist also recommends another way to examine the problem: look at statistics on provisional voting: the number cast might provide indications of intimidation (people being challenged at the polls) and the number of those not counted

would be indications of "vote fraud." One could look at those jurisdictions in the Election Day Survey with a disproportionate number of provisional ballots cast and cross reference it with demographics and number of provisional ballots discarded. (Michael McDonald, George Mason University)

- 8) Spencer Overton, in a forthcoming law review article entitled *Voter Identification*, suggests a methodology that employs three approaches— investigations of voter fraud, random surveys of voters who purported to vote, and an examination of death rolls provide a better understanding of the frequency of fraud. He says all three approaches have strengths and weaknesses, and thus the best studies would employ all three to assess the extent of voter fraud. An excerpt follows:

1. *Investigations and Prosecutions of Voter Fraud*

Policymakers should develop databases that record all investigations, allegations, charges, trials, convictions, acquittals, and plea bargains regarding voter fraud. Existing studies are incomplete but provide some insight. For example, a statewide survey of each of Ohio's 88 county boards of elections found only four instances of ineligible persons attempting to vote out of a total of 9,078,728 votes cast in the state's 2002 and 2004 general elections. This is a fraud rate of 0.00000045 percent. The Carter-Baker Commission's Report noted that since October 2002, federal officials had charged 89 individuals with casting multiple votes, providing false information about their felon status, buying votes, submitting false voter registration information, and voting improperly as a non-citizen. Examined in the context of the 196,139,871 ballots cast between October 2002 and August 2005, this represents a fraud rate of 0.0000005 percent (note also that not all of the activities charged would have been prevented by a photo identification requirement).

A more comprehensive study should distinguish voter fraud that could be prevented by a photo identification requirement from other types of fraud — such as absentee voting and stuffing ballot boxes — and obtain statistics on the factors that led law enforcement to prosecute fraud. The study would demand significant resources because it would require that researchers interview and pour over the records of local district attorneys and election boards.

Hard data on investigations, allegations, charges, pleas, and prosecutions is important because it quantifies the amount of fraud officials detect. Even if prosecutors vigorously pursue voter fraud, however, the number of fraud cases charged probably does not capture the total amount of voter fraud. Information on official investigations, charges, and prosecutions should be supplemented by surveys of voters and a comparison of voting rolls to death rolls.

2. *Random Surveys of Voters*

Random surveys could give insight about the percentage of votes cast fraudulently. For example, political scientists could contact a statistically representative sampling of 1,000 people who purportedly voted at the polls in the last election, ask them if they actually voted, and confirm the percentage who are valid voters. Researchers should conduct the survey soon after an election to locate as many legitimate voters as possible with fresh memories.

Because many respondents would perceive voting as a social good, some who did not vote might claim that they did, which may underestimate the extent of fraud. A surveyor might mitigate this skew through the framing of the question (“I’ve got a record that you voted. Is that true?”).

Further, some voters will not be located by researchers and others will refuse to talk to researchers. Photo identification proponents might construe these non-respondents as improper registrations that were used to commit voter fraud.

Instead of surveying all voters to determine the amount of fraud, researchers might reduce the margin of error by focusing on a random sampling of voters who signed affidavits in the three states that request photo identification but also allow voters to establish their identity through affidavit—Florida, Louisiana, and South Dakota. In South Dakota, for example, only two percent of voters signed affidavits to establish their identity. If the survey indicates that 95 percent of those who signed affidavits are legitimate voters (and the other 5 percent were shown to be either fraudulent or were non-responsive), this suggests that voter fraud accounts for, at the maximum, 0.1 percent of ballots cast.

The affidavit study, however, is limited to three states, and it is unclear whether this sample is representative of other states (the difficulty may be magnified in Louisiana in the aftermath of Hurricane Katrina’s displacement of hundreds of thousands of voters). Further, the affidavit study reveals information about the amount of fraud in a photo identification state with an affidavit exception—more voter fraud may exist in a state that does not request photo identification.

### 3. *Examining Death Rolls*

A comparison of death rolls to voting rolls might also provide an estimate of fraud.

Imagine that one million people live in state A, which has no documentary identification requirement. Death records show that 20,000 people passed away in state A in 2003. A cross-referencing of this list to the voter rolls shows that 10,000 of those who died were registered voters, and these names remained on the voter rolls during the November 2004 election. Researchers would look at what percentage of the 10,000 dead-but-registered people who “voted” in the November 2004 election. A researcher should distinguish the votes cast in the name of the dead at the polls from those cast

absentee (which a photo identification requirement would not prevent). This number would be extrapolated to the electorate as a whole.

This methodology also has its strengths and weaknesses. If fraudulent voters target the dead, the study might overestimate the fraud that exists among living voters (although a low incidence of fraud among deceased voters might suggest that fraud among all voters is low). The appearance of fraud also might be inflated by false positives produced by a computer match of different people with the same name. Photo identification advocates would likely assert that the rate of voter fraud could be higher among fictitious names registered, and that the death record survey would not capture that type of fraud because fictitious names registered would not show up in the death records. Nevertheless, this study, combined with the other two, would provide important insight into the magnitude of fraud likely to exist in the absence of a photo identification requirement.

## MAJOR VOTE BUYING CASES SUMMARY

Between 2001 and 2006, allegations and convictions for vote buying and conspiracies to buy votes were concentrated in three states: Illinois, West Virginia and Kentucky.

In **East St. Louis, Illinois**, nine individuals, including a former city council member and the head of the local Democratic Party, Charles Powell, Jr., were convicted or pled guilty to vote buying and conspiracy to commit election fraud during the 2004 general election. The government's conspiracy case was almost entirely based on taped conversations in which the defendants discussed buying votes for \$5 and whether this would be adequate. Federal prosecutors alleged that the vote buying was financed with \$79,000 transferred from the County Democratic Party shortly before the election, although county officials have not been charged. Four defendants were convicted of purchasing or offering to purchase at least one vote directly, while Democratic Party chairman was only convicted of conspiracy.<sup>1</sup> Earlier, three precinct officials and one precinct worker pled guilty to buying votes for \$5 or \$10 in that same election.<sup>2</sup>

**Eastern Kentucky** has witnessed a series of vote buying cases over the last several years. The most recent revolved around Ross Harris, a Pike County political fundraiser and coal executive, and his associate Loren Glenn Turner. Harris and Turner were convicted in September 2004 of vote buying, mail fraud, and several other counts.<sup>3</sup> Prosecutors alleged Harris and Turner conspired to buy votes and provided the necessary funds in an unsuccessful 2002 bid for Pike County district judge by former State Senator Doug Hays. Harris supplied nearly \$40,000, Turner laundered the money through straw contributors, and the cash was then disbursed in the form of \$50 checks ostensibly for 'vote hauling', the legal practice of paying campaign workers to get voters to the polls which is notorious as a cover for buying votes.<sup>4</sup> Harris attempted to influence the race on behalf of Hays in order to get revenge on Hays' opponent for a personal matter.<sup>5</sup>

A grand jury initially indicted 10 individuals in connection with the Harris and Turner case, including Hays and his wife, and six campaign workers. Of the remaining defendants, only one, Tom Varney, also a witness in the Hays case, pled guilty. The others were either acquitted of vote buying charges or had vote buying charges dropped.<sup>6</sup> Prosecutors have announced that their investigation continues into others tied to Harris and may produce further indictments.

The Harris case follows a series of trials related to the 1998 Knott County Democratic primary. Between 2003 and 2004, 10 individuals were indicted on vote buying charges, including a winning candidate in those primaries, Knott County judge-executive Donnie Newsome, who was reelected in 2002. In 2004 Newsome and a supporter were sent to jail and fined. Five other

---

<sup>1</sup> "Five convicted in federal vote-fraud trial" Associated Press, June 30, 2005; "Powell gets 21 months" Belleville News-Democrat, March 1, 2006.

<sup>2</sup> "Four Plead Guilty To Vote-Buying Cash Was Allegedly Supplied By St. Clair Democratic Machine" Belleville News-Democrat, March 23, 2005.

<sup>3</sup> "2 found guilty in pike county vote-fraud case; Two-year sentences possible," Lexington Herald Leader, September 17, 2004.

<sup>4</sup> "Jury weighing vote-fraud case," Lexington Herald Leader, September 16, 2004.

<sup>5</sup> "Pike Election Trial Goes To Jury" Lexington Herald Leader, January 1, 2006.

<sup>6</sup> "Former state senator acquitted of vote buying," Lexington Herald Leader, November 2, 2004.

defendants pled guilty to vote buying charges, and three were acquitted. The primary means of vote buying entailed purchasing absentee votes from elderly, infirm, illiterate or poor voters, usually for between \$50 and \$100. This resulted in an abnormally high number of absentee ballots in the primary.<sup>7</sup> Indictments relating to that same 1998 primary were also brought in 1999, when 6 individuals were indicted for buying the votes of students at a small local college. Five of those indicted were convicted or pled guilty.<sup>8</sup>

Absentee vote buying was also an issue in 2002, when federal prosecutors opened an investigation in Kentucky's Clay County after an abnormal number of absentee ballots were filed in the primary and the sheriff halted absentee voting twice over concerns.<sup>9</sup> Officials received hundreds of complaints of vote-buying during the 2002 primary, and state investigators performed follow up investigations in a number of counties, including Knott, Bell, Floyd, Pike, and Maginoff.<sup>10</sup> No indictments have been produced so far.

So far, relatively few incidents of vote-buying have been substantially identified or investigated in the 2004 election. Two instances of vote buying in local 2004 elections have been brought before a grand jury. In one, a Casey County man was indicted for purchasing votes in a local school board race with cash and whiskey.<sup>11</sup> In the second, the grand jury chose not to indict an individual accused of offering to purchase a teenager's vote on a local proposal with beer.<sup>12</sup>

An extensive vote buying conspiracy has also been uncovered in southern **West Virginia**. The federal probe, which handed down its first indictment in 2003, has yielded more than a dozen guilty pleas to charges of vote buying and conspiracy in elections since the late 1980s. As this area is almost exclusively dominated by the Democratic Party, vote-buying occurred largely during primary contests.

The first phase of the probe focused on Logan County residents, where vote buying charges were brought in relation to elections in 1996, 2000, 2002 and 2004. In an extraordinary tactic, the FBI planted the former mayor of Logan City, Tom Esposito, as a candidate in a state legislative race. Esposito's cooperation led to guilty pleas from the Logan County Clerk, who pled guilty to selling his vote to Esposito in 1996,<sup>13</sup> and another man who took money from Esposito for the purpose of vote buying in 2004.<sup>14</sup>

Guilty pleas were also obtained in connection with former county sheriff Johnny Mendez, who pled guilty to buying votes in two primary elections in order to elect candidates including

---

<sup>7</sup> "Knott County, KY., Judge Executive sentenced on vote-buying conspiracy charges," Department of Justice, March 16, 2004.

<sup>8</sup> "6 men accused of vote fraud in '98 Knott primary; Charges include vote buying and lying to FBI"

<sup>9</sup> "Election 2002: ABSENTEE BALLOTING; State attorney general's office investigates voting records in some counties" The Courier-Journal, November 7, 2002.

<sup>10</sup> "Election 2002: Kentucky; VOTE FRAUD; Investigators monitor 17 counties across state" The Courier-Journal, November 6, 2002.

<sup>11</sup> "Jury finds man guilty on vote-buying charges" Associated Press, November 11, 2005.

<sup>12</sup> "Man in beer vote case files suit" The Cincinnati Enquirer, March 17, 2005.

<sup>13</sup> "Two plead to vote fraud; Logan clerk sold vote; politician tried to buy votes" Charleston Gazette, December 14, 2005.

<sup>14</sup> "Logan man gets probation in vote-fraud scandal" Charleston Gazette, March 1, 2006.

himself. In 2000, with a large amount of funding from a prominent local lawyer seeking to influence a state delegate election for his wife, Mendez distributed around \$10,000 in payments to voters of \$10 to \$100. Then, in the 2004 primary, Mendez distributed around \$2,000 before his arrest.<sup>15</sup> A deputy of Mendez', the former Logan police chief, also pled guilty to a count of vote buying in 2002.<sup>16</sup>

Prosecutors focusing on neighboring Lincoln County have alleged a long-standing vote-buying conspiracy extending back to the late 1980s. The probe identified Lincoln County Circuit Clerk Greg Stowers as head of a Democratic Party faction which routinely bought votes in order to maintain office. Stowers pled guilty in December 2005 to distributing around \$7,000 to buy votes in the 2004 primary. The Lincoln County Assessor, and Stowers' longtime political ally, Jerry Allen Weaver, also pled guilty to conspiracy to buy votes.<sup>17</sup> These were accompanied by four other guilty pleas from party workers for vote buying in primaries. While most specific charges focused on vote buying in the 2004 primary, defendants also admitted buying votes as far back as the 1988, 1990, and 1992 primaries.

The leading conspirators would give party workers candidate slates and cash, which workers would then take to the polling place and use to purchase votes for amounts between \$10 and \$40 and in one instance, for liquor. Voters would be handed the slate of chosen candidates, and would then be paid upon exiting the polling place. In other cases, the elected officials in question purchased votes in exchange for non-cash rewards, including patronage positions, fixed tickets, favorable tax assessments, and home improvements.<sup>18</sup>

The West Virginia probe is ongoing, as prosecutors are scrutinizing others implicated during the proceedings so far, including a sitting state delegate, who may be under scrutiny for vote buying in a 1990 election, and one of the Lincoln county defendants who previously had vote buying charges against him dropped.<sup>19</sup>

---

<sup>15</sup> "Mendez confined to home for year Ex-Logan sheriff was convicted of buying votes" Charleston Gazette, January 22, 2005.

<sup>16</sup> "Ex-Logan police sentenced for buying votes" Associated Press, February 15, 2005.

<sup>17</sup> "Clerk says he engaged in vote buying" Charleston Gazette, December 30, 2005.

<sup>18</sup> "Lincoln clerk, two others plead guilty to election fraud" Charleston Daily Mail, December 30, 2005.

<sup>19</sup> "Next phase pondered in federal vote-buying probe" Associated Press, January 1, 2006.

## **Nexis Articles Analysis**

Note: The search terms used were ones agreed upon by both Job Serebrov and Tova Wang and are available upon request. A more systematic, numerical analysis of the data contained in the Nexis charts is currently being undertaken. What follows is an overview.

Recommendation: In phase 2, consultants should conduct a Nexis search that specifically attempts to follow up on the cases for which no resolution is evident from this particular initial search.

## **Overview of the Articles**

### *Absentee Ballots*

According to press reports, absentee ballots are abused in a variety of ways:

1. Campaign workers, candidates and others coerce the voting choices of vulnerable populations, usually elderly voters
2. Workers for groups and individuals have attempted to vote absentee in the names of the deceased
3. Workers for groups, campaign workers and individuals have attempted to forge the names of other voters on absentee ballot requests and absentee ballots and thus vote multiple times

It is unclear how often actual convictions result from these activities (a handful of articles indicate convictions and guilty pleas), but this is an area in which there have been a substantial number of official investigations and actual charges filed, according to news reports where such information is available. A few of the allegations became part of civil court proceedings contesting the outcome of the election.

While absentee fraud allegations turn up throughout the country, a few states have had several such cases. Especially of note are Indiana, New Jersey, South Dakota, and most particularly, Texas. Interestingly, there were no articles regarding Oregon, where the entire system is vote by mail.

### *Voter Registration Fraud*

According to press reports, the following types of allegations of voter registration fraud are most common:

1. Registering in the name of dead people
2. Fake names and other information on voter registration forms
3. Illegitimate addresses used on voter registration forms
4. Voters being tricked into registering for a particular party under false pretenses



5. Destruction of voter registration forms depending on the party the voter registered with

There was only one self evident instance of a noncitizen registering to vote. Many of the instances reported on included official investigations and charges filed, but few actual convictions, at least from the news reporting. There have been multiple reports of registration fraud in California, Colorado, Florida, Missouri, New York, North Carolina, Ohio, South Dakota and Wisconsin.

*Voter Intimidation and Suppression*

This is the area which had the most articles in part because there were so many allegations of intimidation and suppression during the 2004 election. Most of these remained allegations and no criminal investigation or prosecution ensued. Some of the cases did end up in civil litigation.

This is not to say that these alleged activities were confined to 2004 – there were several allegations made during every year studied. Most notable were the high number of allegations of voter intimidation and harassment reported during the 2003 Philadelphia mayoral race.

A very high number of the articles were about the issue of challenges to voters' registration status and challengers at the polling places. There were many allegations that planned challenge activities were targeted at minority communities. Some of the challenges were concentrated in immigrant communities.

However, the tactics alleged varied greatly. The types of activities discussed also include the following:

- Photographing or videotaping voters coming out of polling places.
- Improper demands for identification
- Poll watchers harassing voters
- Poll workers being hostile to or aggressively challenging voters
- Disproportionate police presence
- Poll watchers wearing clothes with messages that seemed intended to intimidate
- Insufficient voting machines and unmanageably long lines

Although the incidents reported on occurred everywhere, not surprisingly, many came from "battleground" states. There were several such reports out of Florida, Ohio and Pennsylvania.

*"Dead Voters and Multiple Voting"*

There were a high number of articles about people voting in the names of the dead and voting more than once. Many of these articles were marked by allegations of big numbers of people committing these frauds, and relatively few of these allegations

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

1

City / County	State	Date	Type of Election	Alleged instance of fraud	Original Source	Source 1	Source 2	Source 3	Resolution of Incident / allegation	Source of Resolution 1	Source of Resolution 2	
Phillips	Arkansas	2-Nov-02	primary	The sanitation director for Helena, the Phillips County seat, admitted in court to illegally casting more than 25 absentee ballots in the Democratic primary in May.	Arkansas Democrat-Gazette							
South Gate	California	28-Jan-03	Treasurer and city council recall	Supporters of the recall, which is being led by the city's two police unions, say city employees have been illegally filling out absentee ballots against the recall.	Los Angeles Times							
Bridgeport	Connecticut	6-Sep-02		Election officials found an absentee ballot application for someone who is dead	Connecticut Post							
Bridgeport and New Haven	Connecticut	4-Nov-02	probate judge	FBI is investigating potential absentee ballot fraud in Bridgeport Democratic primary and two men face absentee ballot charges involving 2 New Haven primaries	Connecticut Post							
Hartford	Connecticut	12-Aug	state legislature	former state representative is charged with seven counts of absentee ballot fraud for absentee ballot coercion in a particular apartment complex	Hartford Courant							
Bridgeport	Connecticut	3-Dec-03	town committee	The elections commission wants four brothers to be charged with fraudulent voting for allegedly submitting illegal absentee ballots in the March 2002 Democratic Town Committee primary. The commission alleges that none of the brothers lived in Bridgeport when they voted in those city elections.	Connecticut Post							
Smyrna	Delaware	3-Aug-05	town	A challenger to the mayor who lost by 2 votes is suing the mayor for personally delivering absentee ballots to minority residents, some of whom were not eligible to vote	The News Journal							
Winter Garden	Florida	5-Mar-02	city commissioner	Four are charged with forging names on absentee ballots	AP							
Volusia	Florida	3-Oct-03	city	Elections officials inquire into 43 absentee ballot request forms with the wrong date of birth and 3 requests with forged signatures	Orlando Sentinel							
Winter Haven	Florida	6-Jan-04	town	criminal complaint filed against woman for voting by absentee ballot when she did not live in the district	Polk Online							

010957

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

Hialeah	Florida	21-Mar-04	city council	Miami-Dade public corruption detectives fanned across Hialeah on Friday, questioning employees of the city's public housing agency, as well as friends and relatives of politicians aligned with Mayor Raul Martinez. Sources close to the investigation say those interviewed were asked about their alleged handling of absentee ballots gathered from voters - many of them elderly - in the city's public housing units.	Miami Herald					A special state prosecutor said he found no evidence of election fraud after a yearlong investigation of absentee voting at the Hialeah Housing Authority during that city's 2003 elections	Miami Herald, May 11, 2005			
Orlando	Florida	5-Mar-05	mayoral	A grand jury is investigating the possible mishandling of absentee ballots by a minority voting advocate who has worked for many campaigns	Orlando Sentinel					All charges are dropped. Democrats allege the whole case was politically motivated; Florida prosecutors dropped a case charging the mayor with paying a campaign worker to collect absentee ballots. Three others indicted on the same charge were also cleared.	April 21, 2005 Orlando Sentinel	April 21, 2005, The New York Times		
Cook	Illinois	15-Mar-02	state	ACORN alleges that a man went to a senior citizen home and voted the seniors' absentee ballots	Chicago Sun-Times									
Calumet City	Illinois	3-Sep-03	mayoral	A county judge threw out and reversed an election because of absentee coercion of disabled voters	Chicago Tribune									
Marion	Indiana	1-Nov-02	county	The county prosecutor is investigating absentee ballots in which signatures don't match, voter's names were misspelled, and correction fluid was used to change te address	Indianapolis Star									
Madison	Indiana	29-Apr-03	primary	State police are investigating whether Democratic primary absentee ballots were delivered to nursing homes that traditionally vote Republican	Herald Bulletin									
Lake	Indiana	11-Jul-03	town	Allegations are made of absentee ballots from voters who moved and forged signatures by one person. Case will be heard by a county judge	Northwest Indiana News									
Porter	Indiana	31-Mar-04	town	Elections board investigates allegations that two ineligible voters voted by bsentee ballots	Northwest Indiana News									
East Chicago	Indiana	23-Jun-04	mayoral	The Indiana Supreme Court is considering whether to order a special mayoral election. The losing candidate claims he would have won if not for hundreds of fraudulent absentee votes cast for his opponent, including some cast on behalf of dead voters	AP									

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

Anderson	Indiana	11-Dec-04	mayoral	The longtime Democratic Party chairman in Madison County is accused of illegally delivering absentee ballots cast by two Anderson residents. Another man is accused of 17 Class D felony charges for allegedly registering absentee voters, then telling them how to vote and picking up their ballots. A woman is accused of completing an absentee ballot in September 2003 that listed an address where she did not live.	Indianapolis Star							
East Chicago	Indiana	August 6, 2003, August 8, 2003	mayoral primary	It is alleged that city workers were asked to vote absentee, acquire absentee applications, and given paid election day positions for bringing in absentee votes	Northwest Indiana News				four people indicted, one for receiving absentee ballots for people ineligible to vote, one for failing to appear before the grand jury, and two for voter fraud and lying to the grand jury; county judges tosses out 155 absentee ballots but this does not change the election outcome; DOJ begins investigating	WISH TV, November 18, 2003; Northwest Indiana Times, January 21, 2004		Post Tribune, December 15, 2005: two Democratic precinct committeement and three people with ties to a city contractor were charged with pressuring acquaintances to fill out absentee ballots. This brings the total number of people charged to 22 (See East Chicago summary)
	Maine	13-Feb-04	state house	Police have begun investigating allegations that elderly voters were pres-sured into casting absentee ballots for a Green Independent candidate in Maine's special election. Chief Roger Beaupre said Thursday his department has received 10 complaints of voter intimidation from elderly voters who were told votes for candidates other than Green Independent candidate Dorothy Lafortune did not count.	AP							
River Rouge	Michigan	4-Apr-01	mayoral	state police investigating absentee coercion in a senior apartment building	Yahoo News							
Detroit	Michigan	8-Nov-05	mayoral	A lawsuit alleges the City Clerk's assistants have allowed voters to fill out ballots in group settings, didn't sign their names on ballot envelopes and advertised their services in nursing homes. She also sent 130,000 unsolicited absentee ballot applications defying a court order.	Detroit Free Press				County Circuit Court judge ruled the Clerk violated the law; There is an election contest and a federal investigation involving irregularities with absentee ballots.	November 9, 2005 Detroit Free Press; November 24, 2005 Detroit Free Press		
Houston	Mississippi	10-Nov-05	mayoral	Candidate files a complaint alleging 59 absentee ballots are questionable. He produced a letter from two elderly absentee voters saying they were given plates of food in exchange for allowing his opponent to fill out their ballots.	AP							

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

	Missouri	19-Sep-04	gubernatorial	The state Democratic Party accused Republicans of coercion when they asked county clerks to send the names of people who had requested absentee ballots	AP							
East St. Louis	Missouri	5-Jan-05	city	investigations by the state attorney and the FBI into unspecified absentee ballot fraud	Post Dispatch							
Tonopah	Nevada	23-Oct-02	local general and primary election	The FBI investigates questionable absentee ballot requests	Pahrump Valley Times							
Las Vegas	Nevada	26-Apr-03	assembly	Man is indicted because he voted other people's ballots using absentee voter forms for people who lived outside the district.	AP							
Atlantic City	New Jersey	31-Oct-01	Mayoral	Mayor Whelan's campaign has alleged that street operatives for the mayor's challenger, Councilman Lorenzo Langford, tricked voters into requesting absentee ballots and then went to their homes to bully them into filling the ballots out for Langford. The Whelan campaign has also alleged that Langford has stockpiled absentee ballots to fill out fraudulently. The Langford campaign yesterday denounced Whelan's actions as a means of suppressing voter rights and said it would file a federal civil-rights lawsuit this week.	Philadelphia Inquirer							
Palisades Park	New Jersey	6-Nov-02		The Deputy Attorney General said in a court filing that the prosecutor is investigating four types of irregularities: "1) improprieties in the manner in which voters requested absentee ballots; 2) instances where the voter has stated that they received assistance in voting but that fact is not noted on the voter certification; 3) instances where the absentee ballot was delivered to the Board of Elections by a person other than the one to whom the voter gave the ballot; 4) instances where the voter gave an unmarked ballot to another person."	The Record				276 absentee ballots from the 2002 election in Palisades Park are still impounded in the office of Patricia DiCostanzo, the Bergen County superintendent of elections.	October 4, 2004, The Record		
Atlantic City	New Jersey	9-Jul-03	county primary	Board of elections requests an inquiry into alleged forged absentee ballots	Atlantic County News							
Passaic	New Jersey	22-Sep-04	county	The FBI is investigating charges that voters targetted by a Democratic campaign had their signatures forged or had been pressured or misled into voting absentee	Heral News (Passaic)							

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

	New Jersey	4-Oct-04		In the city of Passaic, three dozen voters claimed they'd been victims of absentee ballot fraud in 2003.	The Record							
Albany County	New York	8-Mar-04	special primaries	131 absentee ballots were delivered by a ward leader, leading to vague allegations of coercion. All absentee ballots and machines impounded under a court order	Albany Times Union							
Albany County	New York	10-Mar-04	county legislature	One person filled in more than 140 signed absentee ballot applications, and there were other administrative errors in absentee ballot distribution and return. The candidates made a deal before the judge ruled on the case to have a special election; the absentee ballots are not counted	Albany Times Union							
Haskell	Oklahoma	7-Nov-02	district attorney	An absentee ballot scandal is being investigated in Haskell County, where one man allegedly admitted notarizing 42 absentee ballots without having the voters present while another man helped him, the District Attorney said.	Daily Oklahoman							
Providence	Rhode Island	23-Aug-02	mayoral	Elderly woman says strangers coerced her into giving them her ballot	Providence Journal-Bulletin							
Senate District 30	South Carolina	27-Sep-04	state senate primary	A person with connections to the Williams campaign nicknamed "The Voter Man" convinced elderly voters, some living in residential care facilities, to fill out absentee ballot registration forms. Some say they never received a ballot, even though records indicate a ballot was cast in their names. * At least one staff member at a Mullins care facility said non-communicative Alzheimer's patients were coaxed into casting absentee ballots. * Another person with ties to the Williams campaign turned in nearly 60 ab-sentee ballots to election officials, many from elderly voters. While not tech-nically illegal, the volume of absentee votes raised eyebrows within the Norwood campaign. As a result of suspected fraud the party ordered a new election and the cases are being criminally investigated.	The State							

010961

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

	South Dakota	20-Oct-02	statewide	several counties forward questionable absentee ballot requests	Angus Leader				October 25, 2002: Red Earth Villeda, a former Democratic contractor is investigated; October 27, 2002: State and federal agents target 25 South Dakota counties; October 31, 2002: no illegally cast ballots are found (see South Dakota summary)	Argus Leader		
Shannon	South Dakota	30-Oct-04	presidential	The prosecutor in Fall River County says he will investigate possible multiple voting by absentee ballot. The multiple ballots were cast by fewer than 10 people	AP							
Sioux Falls	South Dakota	2-Nov-04	senatorial	Three former Republican notary publics pled guilty to signing absentee ballots without witnessing the signatures. Three other former GOP workers are charged, as is one Daschle staff person accused of not being present for two notary applications. Officials say none of the incidents affected any votes	AP				A fourth former employee of the South Dakota Republican Party's get-out-the-vote operation has pleaded guilty to improperly notarizing absentee-ballot re-quests, and another who had pleaded not guilty will appear in court next week to change his plea. Six workers for the GOP Victory effort resigned last month after questions surfaced about some absentee-ballot applications collected at college campuses across the state. Charges were filed after officials said the workers notarized applications collected by other workers, violating a state law that requires notaries to witness documents being signed before they can give them their official seal.	November 4, 2004, Argus Leader		
Dallas	Texas	10-May-01	district council	Both candidates accuse the other manipulating the absentee ballot votes of senior citizens	Dallas Observer							
Dallas	Texas	16-May-01	city council	Several affidavits alleging mail-in voter fraud have been submitted to the Dallas County district attorney's office, according to election officials. But prosecutors have declined to comment about whether those allegations, or any others, would result in a criminal complaint.	Dallas Morning News				A voter fraud investigation has resulted in the indictment of a Dallas woman who is accused of filling out a mail-in ballot in May without the voter's permission, a Dallas prosecutor said Tuesday.	February 13, 2002, Fort-Worth Star Telegram		
Dallas	Texas	27-Jul-02	district council	A candidate for the council alleged three campaign workers spent Friday reviewing mail-in ballots and applications for the ballots and found at least 69 that they believe might have forged signatures on either document.	Fort Worth Star-Telegram							
Dallas	Texas	22-Apr-03	city council	A candidate submitted 12 absentee ballot applications with forged signatures. The DA is investigating.	Dallas Morning News							

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

Hearne	Texas	18-Oct-03	municipal	Man fined and sentenced to five years probation for voting in the names of three dozen other people by absentee ballot. He is the fifth person to plead guilty to similar charges brought by a grand jury in August.17 were indicted.	Houston Chronicle							
Hearne	Texas	28-Dec-03	mayoral	30 people were indicted for forged absentee ballot applications and sending in multiple absentee ballots	Star Telegram							
El Paso	Texas	12-Feb-04	water board	Several mail in ballot requests appeared to be filled out by the same person and a few were in the names of dead people. A precinct chairwoman was charged with four counts of tampering with government records	Assoc Press				Five people have been charged with sending in absentee ballot applications in the names of other people	2/13/2004, El Paso Times		
Hidalgo	Texas	3-Mar-04	miscellaneous, from congress to judge's race	Complaints were made to the Board of Elections against workers for several campaigns of irregularities concerning absentee ballots, including coercion of elderly voters, a complaint that someone requested an absentee ballot for a dead voter; four people said their ballots were already sealed when they received them, and a voter whos absentee ballot that was sent elsewhere	The Monitor							
Bexar	Texas	25-Mar-04	congressional	The names of 42 deceased people, most of whom lived on the South Side, appeared on applications for mail-in ballots that were submitted to election officials for the primaries. A computer at the Bexar County elections office flagged the applications and the district attorney's office is investigating. No ballots appear to have been sent to a dead person as a result of the applications, election officials have said. However, the applications were cited by Henry Cuellar - a Democratic candi-date for the District 28 congressional seat who lost by 145 votes - as one of several concerns that persuaded him to call for a recount this week. The list of applicants includes next-door neighbors, people who never voted when they were alive, and two who died in 1988. All but one bear the deceased's correct voter registration number. Each had the correct address and voting precinct, and all indicated the voter was older than 65, which is one of the reasons individuals may obtain a mail-in ballot. But whoever filled out many of the applications didn't alter his or her hand	San Antonio Express-News							



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Nexis Articles - Absentee Balloting

South San Antonio	Texas	23-May-04		Elderly voters complain of "vote brokering" whereby "coyotes" pressure them into voting by absentee ballot. Investigators have looked into this in the past, and there has only been one conviction of someone pressuring others to vote absentee.	San Antonio Express-News							
Robstown	Texas	27-May-04	school district	The District Attorney requested a recount of ballots because of many complaints of people filing mail-in ballots sent to homes of people who have died. One of the candidates says that in one instance a wife mailed in the ballot of her husband who just died, and another was a son's vote being mistaken for the father's because they had the same name.	Corpus Christi Caller-Times							
Falfurrias	Texas	11-Sep-04	city	After a May 26 recount, Jaime received 501 votes and Martinez wound up with 500 votes. In June, Martinez filed an election contest in district court claiming that "numerous co-conspirators" obtained votes by instructing the voters to cast their ballots for particular candidates. But a criminal investigation into voting violations started before voters cast the final ballots, according to a police report. So far, the criminal investigation has resulted in five felony and one misdemeanor indictments: Santiago Vela was indicted on a bribery charge; Armando Gonzalez, Vanessa Kiser and Roel Mireles were indicted on illegal voting charges; Magdalena Saenz was indicted on an unlawful delivery of a voting certificate charge. One woman, Mirna Quintanilla, was indicted on a misdemeanor charge for allegedly filling out a mail-in ballot for a voter without permission.	Corpus Christi Caller-Times							
Houston	Texas	11-Nov-05	mayoral	Candidate alleges that 64 of the 579 absentee ballots cast in the primary are questionable.	AP							
Hidalgo	Texas	2/26/2004, March 6, 2004	primary	Texas Rangers investigate tampering with mail ballots by "politiqueras"	The Monitor							

010964

Gate City	Virginia	2-Aug-05	mayor	mayor is indicted on 37 felony counts of voter fraud for coercing choices on absentee ballots	Roanoke Times					The former mayor was arraigned in Scott County Circuit Court. He entered not guilty pleas to 18 charges of aiding and abetting in violating the absentee voting process, 17 charges of making a false statement on an absentee ballot application, and two charges of conspiracy. Authorities say he targeted elderly and unsophisticated voters, pressuring them to give false reasons for voting absentee and sometimes filling out their ballots himself.	8/17/2005, Roanoke Times		
Milwaukee	Wisconsin	5-Mar-03	county board recall	A police handwriting expert labeled signatures on 60 absentee ballot envelopes suspicious and elections officials and the DA questioned 36 more. The 96 are among 162 that were distributed to 5th District voters by the African American Coalition for Empowerment. The group had residents agree to ask the city to send absentee ballots to their offices rather than directly to the voters. The group then went to the homes, witnessed the votes and returned the ballots.	Milwaukee Journal Sentinel								
Milwaukee	Wisconsin	15-Jan-04	county recall	A voting rights activist was convicted of three felony counts stemming from his management of an absentee ballot campaign. Although evidence suggested forgery and other mischief, the case turned on one voter registration card. The voter had his signature forged by his girlfriend, and the activist had signed the form as a deputy registrar.	Milwaukee Journal Sentinel								
Milwaukee	Wisconsin	20-Feb-04	county recall	One person is convicted for forging absentee ballots	Milwaukee Journal Sentinel								

110965





018968

About.com

## Report Puts Election Fraud On Front Burner

USA Today published a controversial draft report from the Election Assistance Commission that suggests voter fraud is "less of a problem than is commonly described in political debate." The controversy lies in the fact that the report has remained under wraps since mid-May, and a final report isn't due until after the election.

However, the issue of "illegal voting" is a hot button for many politicians this fall. For example, in September the House of Representatives passed a bill that would require voters to show a valid photo identification in federal elections.

The angst and gnashing of teeth over the report is misplaced. Not only is it a draft report, it's a *poor* draft. The authors cite interviews with unnamed "experts" ... report results of Lexis-Nexis searches of news reports ... and have a literature review that ignores a body of peer-reviewed research which would have squashed one of the cited fears (voting by mail).

Their analysis of news reports suggests that fraud involving absentee votes is an area of abuse. The authors close that section by saying: "Interestingly, there were no [news] articles regarding Oregon, where the entire system is vote by mail."

There are at least three peer-reviewed articles analyzing Oregon's vote-by-mail system. I found them in a five-minute search. This research rebuts the claim made in the press -- and echoed without analysis in the report -- that absentee voting is a high-risk. Not one peer-reviewed paper is cited in the EAC draft report, but that research suggests why there might be no news articles claiming fraud. What a surprise.

If this had been a final report, I'd be writing the government, demanding that they get our money back.

Oh, and like just about everything having to do with HAVA, it's late. The law was passed in 2002. It's four years later, and they still haven't done this research. But they can throw buckets of money at the states for voting technology without good systems, standards or voter-verified ballots.

## RECOMMENDATIONS FOR FURTHER EAC ACTIVITY ON VOTER FRAUD AND INTIMIDATION

Time and resource constraints prevented the consultants from interviewing the full range of participants in the *electoral* process. As a result, we recommend that *in the next phase of this project, further interviews be conducted. In particular, a greater sampling of state and local election officials from different parts of the country should be interviewed. These individuals have first hand information and experience in the operation of elections.* [words removed]

*We also recommend that in the next phase interviews be conducted with people in law enforcement, specifically Federal District Election Officers ("DEOs")<sup>1</sup> and local district attorneys and attorneys defending those accused of election crimes or civil violations. In many instances it is the local district attorney who will investigate election fraud and suppression complaints. Finally, attorneys who defend people accused of election crimes will have a different perspective on how the system is working to detect, prevent, and prosecute election fraud.*

The Nexis search conducted for this phase of the research was based on a list of search terms agreed upon by both consultants. Thousands of articles were reviewed and hundreds analyzed. Many of the articles contain allegations of fraud or intimidation. Similarly, many of the articles contain information about investigations into such activities or even charges brought. However, without being able to go beyond the search [word removed] terms, *we could not determine whether there was any action taken regarding the allegations, investigation or charges brought. Consequently, it is impossible to know if the article is just reporting on "talk" or what turns out to be a serious affront to the system. We recommend that follow up Nexis research be conducted to establish what, if any, resolutions or further activity there was in each case.* [sentence removed]

---

<sup>1</sup> The Public Integrity Section of the Criminal Division of the Department of Justice has all of the 93 U.S. Attorneys appoint Assistant U.S. Attorneys to serve as DEOs for two years. DEOs are required to screen and conduct preliminary investigations of complaints, in conjunction with the FBI and PIN, to determine whether they constitute potential election crimes and should become matters for investigation; oversee the investigation and prosecution of election fraud and other election crimes in their districts; coordinate their district's (investigative and prosecutorial) efforts with DOJ headquarters prosecutors; coordinate election matters with state and local election and law enforcement officials and make them aware of their availability to assist with election-related matters; issue press releases to the public announcing the names and telephone numbers of DOJ and FBI officials to contact on election day with complaints about voting or election irregularities and answer telephones on election day to receive these complaints; and supervise a team of Assistant U.S. Attorneys and FBI special agents who are appointed to handle election-related allegations while the polls are open on election day.

Similarly, many allegations are made in the reports and books that we analyzed and summarized. Those allegations are often not substantiated in any way and are inherently time limited by the date of the writing. Despite this, various interested parties frequently cite such reports and books as evidence of fraud or intimidation. *Therefore, we recommend as a follow up to the literature review, an analysis of the resolution, if any, of specific instances of fraud and intimidation cited in the books and reports reviewed in the first phase.*

*In the first phase, we read and analyzed over 44,000 cases. Unfortunately, few of these were found to be on point. We therefore recommend that in the second phase, research should be concentrated on a national sampling of state district court level electoral cases. Often the district courts settle important issues that are not subsequently appealed. We believe that there could be a storehouse of information regarding vote fraud and intimidation in these cases.*

*We believe that in the second phase of this project, there should be a sampling of local newspapers from around the country to analyze for articles on voter fraud and voter intimidation. This will lead to a better idea of problems that occur on city and county levels that are often not reported statewide. We also recommend that there be a sampling of state electoral laws (including criminal penalty provisions), in order to aid in the development of model legislation that would address voter fraud and intimidation.*

During the 2004 election and the statewide elections of 2005, the University of Pennsylvania led a consortium of groups and researchers in conducting the MyVote1 Project. This project involved using a 1-800 voter hotline where voters could call for poll location, be transferred to a local hotline, or leave a recorded message with a complaint. In 2004, this resulted in over 200,000 calls received and over 56,000 calls recorded complaints. The researchers in charge of this project have done a great deal of work to parse and analyze the data collected through this process, including reviewing the audio messages and categorizing them by the nature of the complaint. These categories include registration, absentee ballot, poll access, ballot/screen, coercion/intimidation, identification, mechanical, and provisional (ballot). We recommend that *the second phase research* include making full use of this data with the cooperation of the project leaders. While perhaps not a *full* scientific survey (given the self-selection of the callers), the information *[words removed]* should provide a good deal of insight into the problems voters experienced, especially those in the nature of intimidation or suppression.

Although according to a recent GAO report the Voting Section of the Civil Rights Division of the Department of Justice tracks complaints of voter intimidation in a variety of ways, the Section was extremely reluctant to provide the consultants with useful information. Further attempts should be made to obtain relevant data. This includes the telephone logs of complaints the Section keeps and information from the database – the Interactive Case Management (ICM) system – the Section maintains on complaints received and the corresponding action taken. We also recommend that further research include a review and analysis of the observer and monitor field reports from Election Day



that must be filed with the Section.

Similarly, the consultants believe it would be useful for any further research to include a review of the reports that must be filed by every DEO to the Public Integrity Section of the Criminal Division of the Department of Justice. As noted above, the DEOs play a central role in receiving reports of voter fraud and investigating and pursuing them. Their reports *[words removed]* would likely provide tremendous insight into what actually transpired during the last several elections. Where necessary, information could be redacted or kept confidential.

The consultants also believe it would be useful for any further activity in this area to include attendance at the next Ballot Access and Voting Integrity Symposium.<sup>2</sup> According to the Department, *[words removed]* DEOs are required to attend annual training conferences *centered on combating* election fraud and voting rights abuses. These conferences *[word removed]* sponsored by the Voting Section of the Civil Rights Division and the Public Integrity Section of the Criminal Division, feature presentations by civil rights officials and senior prosecutors from the Public Integrity Section and the U.S. Attorneys' Offices. As a result of these conferences, there *has been* a nationwide increase in Department expertise relating to the prosecution of election crimes and the enforcement of voting rights.

Included in this report is a summary of various methodologies political scientists and others suggested to measure voter fraud and intimidation. While we note the skepticism of the Working Group in this regard, we nonetheless recommend that in order to further the mission of providing unbiased data, further activity in this area include an academic institution and/or individual that focuses on sound, statistical methods for political science research.

Finally, we recommend that *phase two project* researchers review federal laws to explore ways to make it easier to impose either civil or criminal penalties for acts of intimidation that do not necessarily involve racial animus and/or a physical or economic threats.

According to Craig Donsanto, long-time director of the Public Integrity Section of the Criminal Division of the Department of Justice,

As with other statutes addressing voter intimidation, in the absence of any jurisprudence to the contrary, it is the Criminal Division's position that

---

<sup>2</sup> By attending the symposium researchers could learn more about the following:

How *DEOs* are trained, e.g. what they are taught to focus their resources on; How they are instructed to respond to various types of complaints; How information about previous elections and voting issues is presented; *and*, How the Voting Rights Act, the criminal laws governing election fraud and intimidation, the National Voter Registration Act, and the Help America Vote Act are described and explained to participants.

section 1973gg-10(1) applies only to intimidation which is accomplished through the use of threats of physical or economic duress. Voter "intimidation" accomplished through less drastic means may present violations of the Voting Rights Act, 42 U.S.C. § 1973i(b), which are enforced by the Civil Rights Division through noncriminal remedies.

Mr. Donsanto reiterated these points to us on several occasions, including at the working group meeting.

The second phase of this project should examine if *[words removed]* current laws *can* be revised or new laws *drafted* that would *address* voter intimidation that does not threaten the voter physically or financially, but rather threatens the voter's *tangible* right to vote *[words removed]*. Such *legislation* would *penalize* all forms of voter intimidation, *regardless of the motivation*. The law would *[word removed]* potentially cover *[words removed]* letters and postcards with *contain* language meant to deter voters from voting and pre-Election and Election Day *challenges* that are clearly *[words removed]* illegitimate *[word removed]*.

In the alternative to finding a way to *penalize* such behavior, researchers might examine ways *[words removed]* to deter and punish voter intimidation under *[word removed]* civil law. For example, there might be a private right of action created for voters or groups who have been subjected to intimidation tactics in the voting process. Such an action could be brought against individual offenders; any state or local actor where there is a *unchecked* pattern of repeated abuse *[words removed]*; and organizations that intentionally engage in intimidating practices. *Civil damage penalties and attorney fees should be included*. Another, more modest measure *[words removed]*, as has been suggested by Ana Henderson and Christopher Edley, *would be to bring* fines for violations under the Voting Rights Act *up to parity*. Currently, the penalty for fraud is \$10,000 while the penalty for acts to deprive the right to vote is \$5,000.

*Department of Justice's Activities to Address Past Election-Related Voting Irregularities:* General Accounting Office, October 14, 2004, GAO-04-1041R

*The MyVote1 Project Final Report:* Fels Institute of Government, University of Pennsylvania, November 1, 2005, Pg. 12

*Department of Justice's Activities to Address Past Election-Related Voting Irregularities:* General Accounting Office, October 14, 2004, GAO-04-1041R, p. 4. This same report criticizes some of the procedures the Section used for these systems and urged the Department to improve upon them in time for the 2004 presidential election. No follow-up report has been done since that time to the best of our knowledge.

*Department Of Justice To Hold Ballot Access and Voting Integrity Symposium:* U.S.

Department of Justice press release, August 2, 2005.

Craig C. Donsanto, *Prosecution of Electoral Fraud Under United States Federal Law*, IFES Political Finance White Paper Series, 2006, p. 29.

Ana Henderson and Christopher Edley, Jr., *Voting Rights Act Reauthorization: Research-Based Recommendations to Improve Voting Access*, Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity, University of California at Berkeley, School of Law, 2006, p. 29

Wednesday, October 11, 2006

## Voter fraud reports overstated: US elections panel

Rob DeVries at 7:30 PM ET



[JURIST] The **US Election Assistance Commission** [official website] has **found little evidence to support claims of voter fraud** [status report, PDF] that have been driving the recent push for more stringent voter registration and **voter ID policies** [JURIST report], *USA Today* reported Wednesday. The report, released in May but just made public Wednesday, evaluated claims of fraud and voter intimidation and concluded:

There is widespread but not unanimous agreement that there is little polling place fraud, or at least much less than is claimed, including voter impersonation, "dead" voters, noncitizen voting and felon voters. Those few who believe it occurs often enough to be a concern say that is impossible to show the extent to which it happens, but do point to instance in the press of such incidents. Most people believe that false registration forms have not resulted in polling place fraud, although it may create the perception that vote fraud is possible. ...

Abuse of challenger laws and abusive challengers seem to be the biggest intimidation/suppression concerns, and many of those interviewed assert that the new identification requirements are the modern version of voter intimidation and suppression.

The report also concluded that absentee ballot fraud is far and away the most common type of voter fraud. The report also noted frustration from both sides of the political spectrum regarding failure of the **Department of Justice** [official website] to pursue voting fraud complaints. *USA Today* has **more**.

Several states have enacted laws requiring voters to present **photo ID** [JURIST news archive] at the polls in an effort to combat voter fraud, but courts have largely struck down these laws an unconstitutional. Most recently, the US Court of Appeals for the Ninth Circuit **issued an emergency injunction** [JURIST report] last week blocking Arizona officials from enforcing the state's voter ID law. Similar voter ID bills have recently been blocked in **Georgia** and **Pennsylvania** [JURIST reports], and the Missouri Supreme Court is currently **considering a challenge** [JURIST report] on that state's ID law.

**Suggested States:**

Based on these factors, the 10 most useful states for the purposes of our inquiry include: Kentucky, California, Florida, Ohio, South Dakota, Wisconsin, Pennsylvania, Washington, Oregon, and Texas.

**Timelines and General Workplan:**

Below is a suggested timeframe in which we should accomplish Phase II of our election crimes research:

- Statement of Work developed by April 30, 2007
- Contractor to perform research identified by May 30, 2007
- Preliminary research findings delivered by August 15, 2007
- EAC report on initial findings on October 30, 2007

**EAC Research Project for Study and Analysis of Election Crimes - Projected Time Line for 2007**

	<u>Jan</u>	<u>Feb</u>	<u>March</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>Aug</u>	<u>Sept</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>
<b><u>TASK</u></b>												
Develop and Finalize RFP (EAC)	XX-----XX											
Issue RFP (per CR) (GovWorks)		XX										
Award Contract (Gov Works)			XX									
Paperwork Reduction Approval (EAC and Contractor)			XX-----XX									
Phase I - all functions to prepare for data gathering phase (Contractor)			XX-----XX									
Phase II - gather data, conduct interviews, etc. (Contractor)							XX-----XX					
Phase III - analyze data, prepare first draft of report (Contractor)								XX-----XX				
EAC Due Diligence											XXX	
Finalize Report (Contractor)											XXXX	
EAC Adopts and Issues Reports												XX

## **EAC ELECTION CRIMES STUDY: NEXT STEPS**

### **Background: Phase I**

Section 241 of the Help America Vote Act of 2002 (HAVA) requires the Election Assistance Commission (EAC) to conduct research on election administration issues including nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office [Section 241(b)(6)]; and ways of identifying, deterring, and investigating methods of voter intimidation [Section 241(b)(7)].

The EAC initiated its study of election crimes in 2005, issuing its first report, "Election Crimes: An Initial Review and Recommendations for Future Study" in December 2006. The EAC adopted all or part of six of the 16 recommendations made by EAC consultants and the working group in the 2006 Report. These recommendations include:

- Surveying state chief election officers regarding administrative complaint processes mandated by Section 402 of HAVA,
- Surveying state election crime investigation units regarding complaints filed and referred to local or state law enforcement,
- Surveying state law enforcement and prosecutorial agencies regarding complaints and charges of voting crimes, and
- Analyzing survey data in light of state laws and procedures.

### **Next Steps: Phase II**

As we look to initiate Phase II of this study and explore next steps for conducting a comprehensive survey of election crimes, the main aims of this phase should be:

- Identifying the methods by which states are capturing/identifying and investigating/prosecuting potential election crimes,
- Comparing the rates of election fraud in the context of these state laws/procedures, and
- Accessing the general scale of election crimes under various election systems and election crime enforcement methods.

### **Suggested Research Methodology:**

In order to identify and assess the magnitude and quality of the election crime enforcement methods currently utilized by the states, it would be useful to select a sample of jurisdictions and survey election officials, district attorneys, and district election officers. This sample should be geographically and demographically diverse, juxtaposing states with substantial election crime allegations against those with limited election crime allegations.

Using the uniform definition of election crimes generated during Phase I, the survey would be designed to capture specific data regarding the existence and enforcement of election crimes. Three surveys would be conducted:

- A survey designed for the **state's chief election officials** would focus on election crime complaint procedures—assessing the volume and type of election crimes reported. Additionally, the survey would address the administrative complaint procedures required by Section 402 of HAVA in order to analyze the complaints that have been filed, investigated, and resolved via these procedures since January 1, 2004.
- A survey designed for **district attorneys** would focus on election crime investigations and prosecutions—analyzing the number and type of complaints, charges or indictments, and pleas or convictions.
- A survey of the **district election officers (DEOs)** would include a review of reports filed to the Public Integrity Section of the Criminal Division of the Department of Justice.

#### **Criteria for States to be Sampled:**

In order to get a broad assessment of the current election crime enforcement landscape, it would be helpful for our sample to include the following:

- States with multiple reports of **voter registration fraud** (e.g. California, Florida, Ohio, South Dakota, and Wisconsin),
- States with multiple reports of **voter intimidation and suppression**, (e.g. Florida, Ohio, and Pennsylvania),
- States with multiple reports of **deceptive practices** (e.g. Florida, Ohio, and Pennsylvania)
- States with multiple reports of **felons voting** (e.g. Washington and Wisconsin),
- States with multiple reports of **dead/multiple voters** (e.g. Florida)
- States with multiple reports of **election official fraud** (e.g. Washington and Texas), and
- States with multiple reports of **absentee ballot fraud** (e.g. Indiana, New Jersey, South Dakota, and Texas).

In order to balance these locations, we would also sample from states which do **not** have multiple reports of these election crimes (e.g. Oregon which has few, if any, reported election crimes despite the entire system being conducted by mail).

Additionally, the sample should include states which have the following election system characteristics:

- States with **longstanding statewide voter registration databases** (e.g. Kentucky).
- States with **election day registration** (e.g. Wisconsin),
- States with **election crime investigation units** (e.g. California, New York, and Florida), and
- States with **special election courts** (e.g. Pennsylvania).





U.S. ELECTION ASSISTANCE COMMISSION  
1225 New York Ave. NW – Suite 1100  
Washington, DC 20005

## **EAC Requests Review of Voter ID, Vote Fraud and Voter Intimidation Research Projects**

For Immediate Release  
April 16, 2007

Contact: Jeannie Layson  
Bryan Whitener  
(202) 566-3100

**WASHINGTON** – U.S. Election Assistance Commission (EAC) Chair Donetta Davidson today issued a formal request to the commission's inspector general to conduct a review of the commission's contracting procedures, including a review of two recent projects focusing on voter identification and vote fraud and voter intimidation. The chair's memo to the inspector general is attached.

"The actions taken by the commission regarding these research projects have been challenged, and the commissioners and I agree that it is appropriate and necessary to ask the inspector general to review this matter," said EAC Chair Davidson.

Chair Davidson has requested that the inspector general specifically review the circumstances surrounding the issuance and management of the voter identification research project and the vote fraud and voter intimidation research project.

*EAC is an independent bipartisan commission created by HAVA. It is charged with administering payments to states and developing guidance to meet HAVA requirements, implementing election administration improvements, adopting voluntary voting system guidelines, accrediting voting system test laboratories and certifying voting equipment and serving as a national clearinghouse and resource of information regarding election administration. The four EAC commissioners are Donetta Davidson, chair; Rosemary E. Rodriguez, Caroline Hunter and Gracia Hillman.*

###

010980



U.S. ELECTION ASSISTANCE COMMISSION  
1225 New York Ave. NW – Suite 1100  
Washington, DC 20005

## **EAC Statement Regarding Research and Contracting Policies**

### ***Commission to Review Internal Procedures***

For Immediate Release  
April 11, 2007

Contact: Jeannie Layson  
Bryan Whitener  
(202) 566-3100

**WASHINGTON** – The Help America Vote Act of 2002 (HAVA) directs the Election Assistance Commission (EAC) to serve as a national clearinghouse and resource by, among other things, conducting studies with the goal of improving the administration of federal elections. To fulfill this mandate, the EAC has entered into contracts with a variety of persons and entities. Reports adopted by the EAC, a bipartisan federal entity, are likely to be cited as authoritative in public discourse. Prior to the EAC's adopting a report submitted by a contractor, the EAC has the responsibility to ensure its accuracy and to verify that conclusions are supported by the underlying research.

The Commission takes input and constructive criticism from Congress and the public very seriously. We will take a hard look at the way we do business. Specifically, we will examine both the manner in which we have awarded contracts and our decision-making process regarding the release of research and reports. The EAC takes its mandates very seriously, and we will continue to move forward in a bipartisan way to improve the way America votes.

*EAC is an independent bipartisan commission created by HAVA. It is charged with administering payments to states and developing guidance to meet HAVA requirements, implementing election administration improvements, adopting voluntary voting system guidelines, accrediting voting system test laboratories and certifying voting equipment and serving as a national clearinghouse and resource of information regarding election administration. The four EAC commissioners are Donetta Davidson, chair; Rosemary Rodriguez, Caroline Hunter and Gracia Hillman.*

###

010981



Congressman José E. Serrano  
Representing the Sixteenth District of New York  
**PRESS RELEASE**

FOR IMMEDIATE  
RELEASE:  
Apr 11, 2007

MEDIA CONTACT:  
**Philip Schmidt (202)**  
225-4361

## **SERRANO, HINCHEY URGE NON-PARTISANSHIP, GREATER TRANSPARENCY AT ELECTION ASSISTANCE COMMISSION**

Washington, DC – April 11, 2007 – Today, Congressmen Maurice Hinchey (NY-22) and José E. Serrano (NY-16) urged the Election Assistance Commission (EAC) to act with greater transparency and without partisanship. The comments from the congressmen came as the House Appropriations Subcommittee on Financial Services and General Government released a draft version of an EAC report on voter fraud and intimidation that shows significant changes were made to the findings of outside experts before the final report was released.

“The EAC has an obligation to be forthright with the American people and operate transparently and in a non-partisan manner,” **said Congressman Hinchey, who requested the draft report from EAC Commissioner Donetta L. Davidson during a subcommittee hearing last month.** “The draft report was commissioned with taxpayer dollars upon a mandate from Congress so that we could learn more about voter fraud and intimidation. The need for this report is even more clear when we see the way in which the Bush administration is carrying out the electoral process and how this system is sliding towards corruption. In hiding a draft report from the public that is significantly different from the final version, the EAC has created a lot more questions than it has answered while stunting debate on the issue. In order for our democracy to function properly it is essential that our elections are free of any corruption and that includes ensuring that the EAC does not work to benefit one political party over the other. To achieve that goal we must have all the facts and opinions on the table, not just some of them. The EAC must never limit discussion and debate.”

“The EAC is charged with helping to ensure our elections are trustworthy and administered fairly,” **said Congressman Serrano, who is Chair of the Appropriations Subcommittee that oversees the EAC budget.** “I’m concerned if changes were made to the report on voter fraud because of partisan bias rather than impartial analysis. When you read the draft report side-by-side with the final version, it is clear that important conclusions of the experts who wrote the draft report were excluded from the final product. Among the excluded information is an analysis that undermines the notion that voter fraud is rampant.”

“I am concerned that the EAC did not publicly release the taxpayer-funded draft report, and I worry that political considerations may have played a role. We cannot have a politicized EAC, or one that yields to outside pressure. Our democracy, and the American people’s faith in it, is far more important than any short-term political advantage.”

010982

The draft report was written by outside experts under contract with the EAC. The final report was entitled "Election Crimes: An Initial Review and Recommendations for Future Study" and was issued on December 7, 2006.

The EAC is an independent bipartisan commission created by the 2002 Help America Vote Act in order to disburse funds to the states for the purchase of new voting systems, certify voting technologies, develop guidelines and serve as an information resource for election administration.

###

<b>WASHINGTON OFFICE</b> 2227 Rayburn House Office Building Washington, D.C. 20515-3216 (202) 225-4361 Fax: (202) 225-6001	<b>BRONX OFFICE</b> 788 Southern Blvd. Bronx, New York 10455 (718) 620-0084 Fax: (718) 620-0658
Email: <a href="mailto:jserrano@mail.house.gov">jserrano@mail.house.gov</a>	

010983

For Immediate Release

April 11, 2007

## **Hinchey, Serrano Urge Non-Partisanship, Greater Transparency at Election Assistance Commission**

**Washington, DC** - Today, Congressmen Maurice Hinchey (NY-22) and José E. Serrano (NY-16) urged the Election Assistance Commission (EAC) to act with greater transparency and without partisanship. The comments from the congressmen came as the House Appropriations Subcommittee on Financial Services and General Government released a draft version of an EAC report on voter fraud and intimidation that shows significant changes were made to the findings of outside experts before the final report was released.

"The EAC has an obligation to be forthright with the American people and operate transparently and in a non-partisan manner," said Congressman Hinchey, who requested the draft report from EAC Commissioner Donetta L. Davidson during a subcommittee hearing last month. "The draft report was commissioned with taxpayer dollars upon a mandate from Congress so that we could learn more about voter fraud and intimidation. The need for this report is even more clear when we see the way in which the Bush administration is carrying out the electoral process and how this system is sliding towards corruption. In hiding a draft report from the public that is significantly different from the final version, the EAC has created a lot more questions than it has answered while stunting debate on the issue. In order for our democracy to function properly it is essential that our elections are free of any corruption and that includes ensuring that the EAC does not work to benefit one political party over the other. To achieve that goal we must have all the facts and opinions on the table, not just some of them. The EAC must never limit discussion and debate."

"The EAC is charged with helping to ensure our elections are trustworthy and administered fairly," said Congressman Serrano, who is Chair of the Appropriations Subcommittee that oversees the EAC budget. "I'm concerned if changes were made to the report on voter fraud because of partisan bias rather than impartial analysis. When you read the draft report side-by-side with the final version, it is clear that important conclusions of the experts who wrote the draft report were excluded from the final product. Among the excluded information is an analysis that undermines the notion that voter fraud is rampant."

"I am concerned that the EAC did not publicly release the taxpayer-funded draft report, and I worry that political considerations may have played a role. We cannot have a politicized EAC, or one that yields to outside pressure. Our democracy, and the American people's faith in it, is far more important than any short-term political advantage."

The draft report was written by outside experts under contract with the EAC. The final report was entitled "Election Crimes: An Initial Review and Recommendations for Future Study" and was issued on December 7, 2006.

The EAC is an independent bipartisan commission created by the 2002 Help America Vote Act in order to disburse funds to the states for the purchase of new voting systems, certify voting technologies, develop guidelines and serve as an information resource for election administration.

010984

**COMMITTEE ON THE JUDICIARY**

- CHAIR — SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER SECURITY, AND INTERNATIONAL LAW
- SUBCOMMITTEE ON COURTS, THE INTERNET, AND INTELLECTUAL PROPERTY
- SUBCOMMITTEE ON COMMERCIAL AND ADMINISTRATIVE LAW

**COMMITTEE ON HOMELAND SECURITY**

- SUBCOMMITTEE ON BORDER, MARITIME AND GLOBAL COUNTERTERRORISM
- SUBCOMMITTEE ON EMERGING THREATS, CYBERSECURITY, AND SCIENCE AND TECHNOLOGY

**COMMITTEE ON HOUSE ADMINISTRATION**

- CHAIR — SUBCOMMITTEE ON ELECTIONS

CHAIR, CALIFORNIA DEMOCRATIC CONGRESSIONAL DELEGATION

**Congress of the United States**  
**House of Representatives**  
 Washington, DC 20515-0516

**ZOE LOFGREN**

16TH DISTRICT, CALIFORNIA

835 NORTH FIRST STREET  
 SUITE B  
 SAN JOSE, CA 95112  
 (408) 271-8700  
 (408) 271-8713 (FAX)

102 CANNON HOUSE OFFICE BUILDING  
 WASHINGTON, DC 20515  
 (202) 225-3072  
 (202) 225-3335 (FAX)

[www.house.gov/lofgren](http://www.house.gov/lofgren)

CO-CHAIR, CONGRESSIONAL HAZARDS CAUCUS

CO-CHAIR, BIPARTISAN CONGRESSIONAL REFUGEE CAUCUS

CO-CHAIR, CONGRESSIONAL VIETNAM CAUCUS

April 12, 2007

Chairwoman Donetta Davidson  
 United States Election Assistance Commission  
 1225 New York Avenue N.W., Suite 1100  
 Washington, DC 20005

Dear Chairwoman Davidson:

As Chairwoman of the Committee on House Administration Subcommittee on Elections, which has oversight over the Election Assistance Commission, I was alarmed at what appears to be an emerging pattern by the EAC to hold off on publicly releasing reports as well as modifying reports that are released. Two recent instances have brought to light the increased politicalization of the EAC and this lack of transparency.

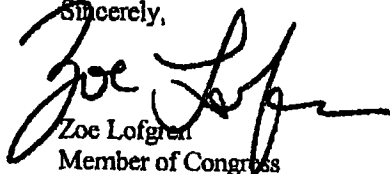
First, the House Appropriations Subcommittee on Financial Services and General Government released a draft version of an EAC report on voter fraud and intimidation that shows significant changes were made to the findings of outside experts before the final report was released. The EAC released report "Election Crimes: An Initial Review and Recommendations for Future Study" does not accurately reflect the research in the original report "Voting Fraud and Voter Intimidation."

Second, in addition to this report on voter fraud and intimidation, the EAC recently released a report by The Eagleton Institute of Politics at Rutgers University on voter identification. Again, the EAC did not endorse the report, citing methodological concerns, and only released it after pressure from Congress.

The EAC is charged with conducting nonpartisan research and to advise policy makers. How are we to rely on advice if instead of full and accurate reporting, we are provided an inaccurate modified version which negates clear evidence to the contrary in the original research? I am outraged that the election process is being threatened by a lack of transparency and limited discussion.

In order to preempt any further problems with the release of reports from the EAC, I request all versions of the Absentee Ballot report and the Military and Overseas report, as well as any other overdue reports, including supporting documents and research, be provided to my office by close of business Monday, April 16, 2007. These reports are overdue and I want to ensure that the delay is no way related to what appears to be an ongoing problem of politicalization of the EAC.

Sincerely,

  
 Zoe Lofgren  
 Member of Congress

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Johnson v. Bush	United States District Court for the Southern District of Florida	214 F. Supp. 2d 1333; 2002 U.S. Dist. LEXIS 14782	July 18, 2002	Plaintiff felons sued defendant state officials for alleged violations of their constitutional rights. The officials moved and the felons cross-moved for summary judgment.	The felons had all successfully completed their terms of incarceration and/or probation, but their civil rights to register and vote had not been restored. They alleged that Florida's disenfranchisement law violated their rights under First, Fourteenth, Fifteenth, and Twenty--Fourth Amendments to the United States Constitution, as well as § 1983 and §§ 2 and 10 of the Voting Rights Act of 1965. Each of the felons' claims was fatally flawed.	No	N/A	No

986010

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					The felons' exclusion from voting did not violate the Equal Protection or Due Process Clauses of the United States Constitution. The First Amendment did not guarantee felons the right to vote. Although there was evidence that racial animus was a factor in the initial enactment of Florida's disenfranchisement law, there was no evidence that race played a part in the re-enactment of that provision. Although it appeared that there was a disparate impact on			

010987



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					minorities, the cause was racially neutral. Finally, requiring the felons to pay their victim restitution before their rights would be restored did not constitute an improper poll tax or wealth qualification. The court granted the officials' motion for summary judgment and implicitly denied the felons' motion. Thus, the court dismissed the lawsuit with prejudice.			
Farrakhan v. Locke	United States District Court for the Eastern District of Washington	2000 U.S. Dist. LEXIS 22212	December 1, 2000	Plaintiffs, convicted felons who were also racial minorities, sued defendants for alleged	The felons alleged that Washington's felon disenfranchisement and restoration of civil rights	No	N/A	No

886010

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				violations of the Voting Rights Act. The parties filed cross--motions for summary judgment.	schemes, premised upon Wash. Const. art. VI § 3, resulted in the denial of the right to vote to racial minorities in violation of the VRA. They argued that race bias in, or the discriminatory effect of, the criminal justice system resulted in a disproportionate number of racial minorities being disenfranchised following felony convictions. The court concluded that Washington's felon disenfranchisement provision disenfranchised a disproportionate number of			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>minorities; as a result, minorities were under--represented in Washington's political process. The Rooker--Feldman doctrine barred the felons from bringing any as--applied challenges, and even if it did not bar such claims, there was no evidence that the felons' individual convictions were born of discrimination in the criminal justice system. However, the felons' facial challenge also failed. The remedy they sought would create a new</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					constitutional problem, allowing disenfranchisement only of white felons. Further, the felons did not establish a causal connection between the disenfranchisement provision and the prohibited result. The court granted defendants' motion and denied the felons' motion for summary judgment.			
Farrakhan v. Washington	United States Court of Appeals for the Ninth Circuit	338 F.3d 1009; 2003 U.S. App. LEXIS 14810	July 25, 2003	Plaintiff inmates sued defendant state officials, claiming that Washington state's felon disenfranchisement scheme constitutes improper race--based vote denial	Upon conviction of infamous crimes in the state, (that is, crimes punishable by death or imprisonment in a state correctional facility), the inmates were disenfranchised.	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				in violation of § 2 of the Voting Rights Act. The United States District Court for the Eastern District of Washington granted of summary judgment dismissing the inmates' claims. The inmates appealed.	The inmates claimed that the disenfranchisement scheme violated § 2 because the criminal justice system was biased against minorities, causing a disproportionate minority representation among those being disenfranchised. The appellate court held, inter alia, that the district court erred in failing to consider evidence of racial bias in the state's criminal justice system in determining whether the state's felon disenfranchisement laws resulted in			

010992

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					denial of the right to vote on account of race. Instead of applying its novel "by itself" causation standard, the district court should have applied a totality of the circumstances test that included analysis of the inmates' compelling evidence of racial bias in Washington's criminal justice system. However, the inmates lacked standing to challenge the restoration scheme because they presented no evidence of their eligibility, much			

010993

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					less even allege that they were eligible for restoration, and had not attempted to have their civil rights restored. The court affirmed as to the eligibility claim but reversed and remanded for further proceedings to the bias in the criminal justice system claim.			
Muntaqim v. Coombe	United States Court of Appeals for the Second Circuit	366 F.3d 102; 2004 U.S. App. LEXIS 8077	April 23, 2004	Plaintiff inmate appealed a judgment of the United States District Court for the Northern District of New York, which granted summary judgment in favor of defendants in the inmate's action alleging violation	At issue was whether the VRA could be applied to N.Y. Elec. Law § 5-106, which disenfranchised currently incarcerated felons and parolees. The instant court concluded that the Voting Rights Act did not apply to the	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				of § 2 of the Voting Rights Act of 1965.	New York law. Applying the Act to state law would alter the traditional balance of power between the states and the federal government. The court was not convinced that there was a congruence and proportionality between the injury to be prevented or remedied (i.e., the use of vote denial and dilution schemes to avoid the strictures of the VRA), and the means adopted to that end (i.e., prohibition of state felon disenfranchisement law that resulted in			

010995



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>vote denial or dilution but were not enacted with a discriminatory purpose). Further, there was no clear statement from Congress that the Act applied to state felon disenfranchisement statutes. Inter alia, defendants were entitled to qualified immunity as to claim asserted against them in their personal capacities, and to Eleventh Amendment immunity to the extent the inmate sought damages against defendants in their official capacities. The</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					district court's judgment was affirmed.			
Johnson v. Governor of Fla.	United States Court of Appeals for the Eleventh Circuit	353 F.3d 1287; 2003 U.S. App. LEXIS 25859	December 19, 2003	Plaintiffs, ex--felon citizens of Florida, on their own right and on behalf of others, sought review of a decision of the United States District Court for the Southern District of Florida, which granted summary judgment to defendants, members of the Florida Clemency Board in their official capacity. The citizens challenged the validity of the Florida felon disenfranchisement laws.	The citizens alleged that Fla. Const. art. VI, § 4 (1968) was racially discriminatory and violated their constitutional rights. The citizens also alleged violations of the Voting Rights Act. The court of appeals initially examined the history of Fla. Const. art. VI, § 4 (1968) and determined that the citizens had presented evidence that historically the disenfranchisement provisions were motivated by a	No	N/A	No

010997

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					discriminatory animus. The citizens had met their initial burden of showing that race was a substantial motivating factor. The state was then required to show that the current disenfranchisement provisions would have been enacted absent the impermissible discriminatory intent. Because the state had not met its burden, summary judgment should not have been granted. The court of appeals found that the claim under the Voting Rights Act, also needed to			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					be remanded for further proceedings. Under a totality of the circumstances, the district court needed to analyze whether intentional racial discrimination was behind the Florida disenfranchisement provisions. The court affirmed the district court's decision to grant summary judgment on the citizens' poll tax claim. The court reversed the district court's decision to grant summary judgment to the Board on the claims under the equal protection clause and for			

666070

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					violation of federal voting laws and remanded the matter to the district court for further proceedings.			
Fischer v. Governor	Supreme Court of New Hampshire	145 N.H. 28; 749 A.2d 321; 2000 N.H. LEXIS 16	March 24, 2000	Appellant State of New Hampshire challenged a ruling of the superior court that the felon disenfranchisement statutes violate N.H. Const. pt. I, Art. 11.	Appellee was incarcerated at the New Hampshire State Prison on felony convictions. When he requested an absentee ballot to vote from a city clerk, the request was denied. The clerk sent him a copy of N.H. Rev. Stat. Ann. § 607(A)(2) (1986), which prohibits a felon from voting "from the time of his sentence until his final discharge." The trial court	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					declared the disenfranchisement statutes unconstitutional and ordered local election officials to allow the plaintiff to vote. Appellant State of New Hampshire challenged this ruling. The central issue was whether the felon disenfranchisement statutes violated N.H. Const. pt. I, art. 11. After a review of the article, its constitutional history, and legislation pertinent to the right of felons to vote, the court concluded that the legislature retained the			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					authority under the article to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority, and reversed. Judgment reversed because the court concluded that the legislature retained its authority under the New Hampshire Constitution to determine voter qualifications and that the felon disenfranchisement statutes were a reasonable exercise of legislative authority.			
Johnson v. Governor of	United States Court of	405 F.3d 1214;	April 12, 2005	Plaintiff individuals sued	The individuals argued that the	No	N/A	No

011002

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Fla.	Appeals for the Eleventh Circuit	2005 U.S. App. LEXIS 5945		defendant members of Florida Clemency Board, arguing that Florida's felon disenfranchisement law, Fla. Const. art. VI, § 4 (1968), violated the Equal Protection Clause and the Voting Rights Act. The United States District Court for the Southern District of Florida granted the members summary judgment. A divided appellate panel reversed. The panel opinion was vacated and a rehearing en banc was granted.	racial animus motivating the adoption of Florida's disenfranchisement laws in 1868 remained legally operative despite the reenactment of Fla. Const. art. VI, § 4 in 1968. The subsequent reenactment eliminated any discriminatory taint from the law as originally enacted because the provision narrowed the class of disenfranchised individuals and was amended through a deliberative process. Moreover, there was no allegation of racial			



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					discrimination at the time of the reenactment. Thus, the disenfranchisement provision was not a violation of the Equal Protection Clause and the district court properly granted the members summary judgment on that claim. The argument that the Voting Rights Act applied to Florida's disenfranchisement provision was rejected because it raised grave constitutional concerns, i.e., prohibiting a practice that the Fourteenth Amendment			

011004

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					permitted the state to maintain. In addition, the legislative history indicated that Congress never intended the Voting Rights Act to reach felon disenfranchisement provisions. Thus, the district court properly granted the members summary judgment on the Voting Rights Act claim. The motion for summary judgment in favor of the members was granted.			
Mixon v. Commonwealth	Commonwealth Court of Pennsylvania	759 A.2d 442; 2000 Pa. Commw.	September 18, 2000	Respondents filed objections to petitioners' complaint seeking declaratory relief	Petitioner convicted felons were presently or had formerly been confined in state	No	N/A	No

011005

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
		LEXIS 534		as to the unconstitutionality of the Pennsylvania Election Code, 25 Pa. Cons. Stat. §§ 2600 -- 3591, and the Pennsylvania Voter Registration Act, 25 Pa. Cons. Stat. §§ 961.101--961.5109, regarding felon voting rights.	prison. Petitioner elector was currently registered to vote in respondent state. Petitioners filed a complaint against respondent state seeking declaratory relief challenging as unconstitutional, state election and voting laws that excluded confined felons from the definition of qualified absentee electors and that barred a felon who had been released from a penal institution for less than five years from registering to vote. Respondents filed objections to petitioners'			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>complaint. The court sustained respondents' objection that incarcerated felons were not unconstitutionally deprived of qualified absentee elector status because respondent state had broad power to determine the conditions under which suffrage could be exercised. However, petitioner elector had no standing and the court overruled objection as to deprivation of ex-felon voting rights. The court sustained respondents' objection since</p>			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					incarcerated felons were not unconstitutionally deprived of qualified absentee elector status and petitioner elector had no standing, but objection that ex--incarcerated felons' voting rights were deprived was overruled since status penalized them.			
Rosello v. Calderon	United States District Court for the District of Puerto Rico	2004 U.S. Dist. LEXIS 27216	November 30, 2004	Plaintiff voters filed a § 1983 action against defendant government officials alleging violations the Due Process and Equal Protection Clauses of the U.S. Const. amend. XIV, resulting from the	The voters' § 1983 action against government officials alleged that absentee ballots for a gubernatorial election were untimely mailed and that split votes, which registered two votes for the	No	N/A	No

011008

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				invalidity of absentee and split ballots in a gubernatorial election.	same office, were null. The court asserted jurisdiction over the disparate treatment claims, which arose under the U.S. Constitution. The court declined to exercise discretionary abstention because the case was not merely a facial attack on the constitutionality of a statute, but was mainly an applied challenge, requiring a hearing in order to develop the record, and because equal protection and due process were secured under the state and federal constitutions. The			

011009

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>court held that the voters had a fundamental due process right created by Puerto Rico Election Law and suffered an equal protection violation in further violation of the U.S. Const. amend. I right to vote, thereby creating their total disenfranchisement. The court held that the evidence created an inference that the split ballots were not uniformly treated and that it was required to examine a mixed question of fact and constitutional law pursuant to federal</p>			

011010

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					guidelines to determine whether potential over votes were invalid. The court asserted jurisdiction over the voters' claims.			
Woodruff v. Wyoming	United States Court of Appeals for the Tenth Circuit	49 Fed. Appx. 199; 2002 U.S. App. LEXIS 21060	October 7, 2002	Plaintiffs, pro se inmates, appealed from an order of the United States District Court for the District of Wyoming, dismissing their complaint brought under § 1983, challenging Wyo. Stat. Ann. § 6--10--106, which denied them, as convicted felons, the right to vote. The district court dismissed the action for failure to state a claim upon which relief could	The inmates argued that the statute violated their Eighth Amendment right and their State constitutional right to be free from cruel and unusual punishment, their equal protection rights under the Fourteenth Amendment and State Constitution, and their federal and state rights to due process. One inmate had not paid the appellate filing fee or filed a	No	N/A	No

011011



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				be granted and as frivolous.	motion to proceed on appeal without prepayment of costs or fees, and his appeal was dismissed. The court found that U.S. Const. amend. XIV, § 2 had long been held to exclude felons from the right to vote. It could scarcely be unreasonable for a state to decide that perpetrators of serious crimes should not take part in electing the legislators who made the laws, the executives who enforced them, the prosecutors who tried the cases, or the judges who heard their cases.			

011012

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					The court also found the dismissed suit constituted a "strike" under 28 U.S.C.S. § 1915(g), although the suit did not challenge prison conditions per se. One inmate's appeal was dismissed; the judgment dismissing the other's complaint was affirmed.			
N.J. State Conf.--NAACP v. Harvey	Superior Court of New Jersey, Appellate Division	381 N.J. Super. 155; 885 A.2d 445; 2005 N.J. Super. LEXIS 316	November 2, 2005	The Superior Court of New Jersey, Chancery Division, Union County, dismissed a complaint filed by plaintiff interested parties to invalidate N.J. Stat. Ann. § 19:4--1(8) on the ground that it denied	The statute at issue prohibited all people on parole or probation for indictable offenses from voting. The interested parties alleged that the criminal justice system in New Jersey discriminated	No	N/A	No

011013

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				African--Americans and Hispanics equal protection of the law. Defendant, the New Jersey Attorney General, moved to dismiss the complaint for failure to state a claim, and said motion was granted. The interested parties then appealed.	against African-Americans and Hispanics, thereby disproportionately increasing their population among parolees and probationers and diluting their political power. As a result, the alleged that enforcement of the statute resulted in a denial of equal protection under the state Constitution. The appeals court disagreed. N.J. Const. art. II authorized the New Jersey Legislature to disenfranchise persons convicted of certain crimes from voting. Moreover, those			

011014

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					convicts could not vote unless pardoned or unless otherwise restored by law to the right of suffrage. The statute also limited the period of disenfranchisement during a defendant's actual service on parole or probation. Thus, it clearly complied with this specific constitutional mandate. The judgment was affirmed.			
King v. City of Boston	United States District Court for the District of Massachusetts	2004 U.S. Dist. LEXIS 8421	May 13, 2004	Plaintiff inmate filed a motion for summary judgment in his action challenging the constitutionality of Mass. Gen. Laws ch. 51, § 1, which	The inmate was convicted of a felony and incarcerated. His application for an absentee ballot was denied on the ground that he was	No	N/A	No

011015

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				excluded incarcerated felons from voting while they were imprisoned.	not qualified to register and vote under Mass. Gen. Laws ch. 51, § 1. The inmate argued that the statute was unconstitutional as it applied to him because it amounted to additional punishment for crimes he committed before the statute's enactment and thus violated his due process rights and the prohibition against ex post facto laws and bills of attainder. The court held that the statute was regulatory and not punitive because rational choices			

011016

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					<p>were implicated in the statute's disenfranchisement of persons under guardianship, persons disqualified because of corrupt elections practices, persons under 18 years of age, as well as incarcerated felons. Specifically, incarcerated felons were disqualified during the period of their imprisonment when it would be difficult to identify their address and ensure the accuracy of their ballots. Therefore, the court concluded that Mass. Gen. Laws ch. 51, § 1 did not violate the inmate's constitutional</p>			

011017

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					rights. The court found the statute at issue to be constitutional and denied the inmate's motion for summary judgment.			
Southwest Voter Registration Educ. Project v. Shelley	United States District Court for the Central District of California	278 F. Supp. 2d 1131; 2003 U.S. Dist. LEXIS 14413	August 15, 2003	Plaintiffs, several groups, brought suit alleging that the proposed use of "punch-card" balloting machines in the California election would violate the United States Constitution and Voting Rights Act. Plaintiffs moved for an order delaying that election, scheduled for October 7, 2003, until such time as it could be conducted without use of punch-card	Plaintiffs claimed voters using punch-card machines would have a comparatively lesser chance of having their votes counted in violation of the Equal Protection Clause and the counties employing punch-card systems had greater minority populations thereby disproportionately disenfranchising and/or diluting the votes on the basis of race, in violation	No	N/A	No

011018

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				machines.	of § 2 of the Voting Rights Act. While the court did not need to decide the res judicata issue at this juncture, there was ample reason to believe that plaintiffs would have had a difficult time overcoming it as they were seeking to establish the same constitutional violations alleged in prior litigation, but to secure an additional remedy. Plaintiffs failed to prove a likelihood of success on the merits with regard to both of their claims. Even if plaintiffs could show disparate			



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					treatment, such would not have amounted to illegal or unconstitutional treatment. The balance of hardships weighed heavily in favor of allowing the election to proceed. The public interests in avoiding wholesale disenfranchisement, and/or not plunging the State into a constitutional crisis, weighed heavily against enjoining the election. Plaintiffs' motion for preliminary injunction (consolidated with plaintiffs' ex parte application for			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					temporary restraining order) was denied.			
Igartua--de la Rosa v. United States	United States Court of Appeals for the First Circuit	417 F.3d 145; 2005 U.S. App. LEXIS 15944	August 3, 2005	Plaintiff, a U.S. citizen residing in Puerto Rico, appealed from an order of the United States District Court for the District of Puerto Rico, that rejected his claim that he was deprived of the constitutional right to vote for President and Vice President of the United States, and was also violative of three treaty obligations of the United States.	The putative voter had brought the same claims twice before. The court pointed out that U.S. law granted to the citizens of states the right to vote for the slate of electors to represent that state. Although modern ballots omitted the names of the electors and listed only the candidates, and in form it appeared that the citizens were voting for President and Vice President directly, they were not, but were voting for electors.	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disenfranchisement Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Puerto Rico was not a state, and had not been enfranchised as the District of Columbia had by the 23rd Amendment. The franchise for choosing electors was confined to "states" by the Constitution. The court declined to turn to foreign or treaty law as a source to reverse the political will of the country. The judgment of the district court was affirmed.			

011022

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Am. Ass'n of People with Disabilities v. Shelley	United States District Court for the Central District of California	324 F. Supp. 2d 1120; 2004 U.S. Dist. LEXIS 12587	July 6, 2004	Plaintiffs, disabled voters and organizations representing those voters, sought to enjoin the directives of defendant California Secretary of State, which decertified and withdrew approval of the use of certain direct recording electronic voting systems. One voter applied for a temporary restraining order, or, in	The voters urged the invalidation of the Secretary's directives because, allegedly, their effect was to deprive the voters of the opportunity to vote using touch--screen technology. Although it was not disputed that some disabled persons would be unable to vote independently and in private without the use of DREs, it was clear that they would not be	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				the alternative, a preliminary injunction.	deprived of their fundamental right to vote. The Americans with Disabilities Act did not require accommodation that would enable disabled persons to vote in a manner that was comparable in every way with the voting rights enjoyed by persons without disabilities. Rather, it mandated that voting programs be made accessible.			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Defendant's decision to suspend the use of DREs pending improvement in their reliability and security of the devices was a rational one, designed to protect the voting rights of the state's citizens. The evidence did not support the conclusion that the elimination of the DREs would have a discriminatory effect on the visually or manually impaired. Thus, the voters			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					showed little likelihood of success on the merits. The individual's request for a temporary restraining order, or, in the alternative, a preliminary injunction, was denied.			
Am. Ass'n of People with Disabilities v. Hood	United States District Court for the Middle District of Florida	310 F. Supp. 2d 1226; 2004 U.S. Dist. LEXIS 5615	March 24, 2004	Plaintiffs, disabled voters, and a national organization, sued defendants, the Florida Secretary of State, the Director of the Division of Elections of the Florida	The voters were visually or manually impaired. The optical scan voting system purchased by the county at issue was not readily accessible to visually or manually impaired	No	N/A	No

011026

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				Department of State, and a county supervisor of elections, under Title II of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act of 1973. Summary judgment was granted for the Secretary and the Director as to visually impaired voters.	voters. The voters were unable to vote using the system without third--party assistance. If it was feasible for the county to purchase a readily accessible system, then the voters' rights under the ADA and the RA were violated. The court found that the manually impaired voter's rights were violated. To the extent "jelly switches" and "sip and puff" devices			



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					needed to be attached to a touch screen machine for it to be accessible, it was not feasible for the supervisor to provide such a system, since no such system had been certified at the time of the county's purchase. 28 C.F.R. § 35.160 did not require that visually or manually impaired voters be able to vote in the same or similar manner as non--disabled voters.			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Visually and manually impaired voters had to be afforded an equal opportunity to participate in and enjoy the benefits of voting. The voters' "generic" discrimination claim was coterminous with their claim under 28 C.F.R. § 35.151. A declaratory judgment was entered against the supervisor to the extent another voting system would			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					have permitted unassisted voting. The supervisor was directed to have some voting machines permitting visually impaired voters to vote alone. The supervisor was directed to procure another system if the county's system was not certified and/or did not permit mouth stick voting. The Secretary and Director were granted judgment against the voters.			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Troiano v. Lepore	United States District Court for the Southern District of Florida	2003 U.S. Dist. LEXIS 25850	November 3, 2003	Plaintiffs, disabled voters, sued defendant a state county supervisor of elections alleging discrimination pursuant to the Americans With Disability Act, 42 U.S.C.S. § 12132 et seq., § 504 of the Rehabilitation Act, 29 U.S.C.S. § 794 et seq., and declaratory relief for the discrimination. Both sides moved for summary judgment.	The complaint alleged that after the 2000 elections Palm Beach County purchased a certain number of sophisticated voting machines called the "Sequoia." According to the voters, even though such accessible machines were available, the supervisor decided not to place such accessible machines in each precinct because it would slow things down	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					too much. The court found that the voters lacked standing because they failed to show that they had suffered an injury in fact. The voters also failed to show a likely threat of a future injury because there was no reasonable grounds to believe that the audio components of the voting machines would not be provided in the future. The voters also failed to state			

011032

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					an injury that could be redressed by a favorable decision, because the supervisor was already using the Sequoia machines and had already trained poll workers on the use of the machines. Finally, the action was moot because the Sequoia machines had been provided and there was no reasonable expectation that the machines would not have audio			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					components available in the future. The supervisor's motion for summary judgment was granted. The voters' motion for summary judgment was denied.			
Troiano v. Supervisor of Elections	United States Court of Appeals for the Eleventh Circuit	382 F.3d 1276; 2004 U.S. App. LEXIS 18497	September 1, 2004	Plaintiff visually impaired registered voters sued defendant county election supervisor, alleging that the failure to make available audio components in voting booths	The district court granted the election supervisor summary judgment on the grounds that the voters did not have standing to assert their claims and the claims were moot. The appellate court	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				to assist persons who were blind or visually impaired violated state and federal law. The United States District Court for the Southern District of Florida entered summary judgment in favor of the election supervisor. The voters appealed.	agreed that the case was moot because the election supervisor had furnished the requested audio components and those components were to be available in all of the county's voting precincts in upcoming elections. Specifically, the election supervisor had ceased the allegedly illegal practice of limiting access to the audio components			



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					prior to receiving notice of the litigation. Moreover, since making the decision to use audio components in every election, the election supervisor had consistently followed that policy and taken actions to implement it even prior to the litigation. Thus, the appellate court could discern no hint that she had any intention of removing the accessible			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					voting machines in the future. Therefore, the voters' claims were moot, and the district court's dismissal was affirmed for lack of subject matter jurisdiction. The decision was affirmed.			
Am. Ass'n of People with Disabilities v. Smith	United States District Court for the Middle District of Florida	227 F. Supp. 2d 1276; 2002 U.S. Dist. LEXIS 21373	October 16, 2002	Plaintiff organization of people with disabilities and certain visually and manually impaired voters filed an action against defendant state and local	Individual plaintiffs were unable to vote unassisted with the equipment currently used in the county or the equipment the county had recently purchased. In order to vote,	No	N/A	No

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				election officials and members of a city council, claiming violation of the Americans with Disabilities Act, 42 U.S.C.S. § 12101 et seq., and the Rehabilitation Act of 1973, and Fla. Const. art. VI, § 1. Defendants filed motions to dismiss.	the impaired individuals relied on the assistance of third parties. The court held that it could not say that plaintiffs would be unable to prove any state of facts that would satisfy the ripeness and standing requirements. The issue of whether several Florida statutory sections were violative of the Florida Constitution were so intertwined with the federal			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					claims that to decline supplemental jurisdiction be an abuse of discretion. Those statutes which provided for assistance in voting did not violate Fla. Const. art. VI, § 1. Because plaintiffs may be able to prove that visually and manually impaired voters were being denied meaningful access to the service, program, or activity, the court could not			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					say with certainty that they would not be entitled to relief under any state of facts which could be proved in support of their claims. Defendant council members were entitled to absolute legislative immunity. The state officials' motion to dismiss was granted in part such that the counts were dismissed with prejudice to the extent plaintiffs asserted that			

011040

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Disability Access Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					they had been excluded from or denied the benefits of a program of direct and secret voting and in part was dismissed with leave to amend. The local officials motion to dismiss was granted in part such that all counts against the city council members were dismissed.			

011041

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
Powers v. Donahue	Supreme Court of New York, Appellate Division, First Department	276 A.D.2d 157; 717 N.Y.S.2d 550; 2000 N.Y. App. Div. LEXIS 12644	December 5, 2000	Petitioner appealed an order of the supreme court, which denied his motion to direct the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to count only the absentee ballot listing correct candidates' names.	When the New York County Board of Elections learned some absentee ballots mailed to voters in one district listed the wrong candidates for state senator it sent a second set of absentee ballots to absentee voters informing them the first ballot was defective and requesting they use the second ballot. The board agreed if two ballots were received from the same voter, only the corrected ballot would be counted.	No	N/A	No

011042

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					Appellant candidate moved in support of the board's determination. Respondent candidate opposed the application, contending that only the first ballot received should have been canvassed. The trial court denied appellant's motion, ruling that pursuant to New York law, where two ballots were received from the same voter, only the ballot with the earlier date was to be accepted. The court found the			



EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					local board officials should have resolved the dispute as they proposed. The order was modified and the motion granted to the extent of directing the New York County Board of Elections, in cases where more than one absentee ballot was returned by a voter, to accept only the corrected ballot postmarked on or before November 7, 2000, and otherwise affirmed.			
Goodwin v. St. Thomas--	Territorial Court of the	43 V.I. 89; 2000	December 13, 2000	Plaintiff political	Plaintiff alleged that defendants	No	N/A	No

011044

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
St. John Bd. of Elections	Virgin Islands	V.I. LEXIS 15		candidate alleged that certain general election absentee ballots violated territorial election law, and that the improper inclusion of such ballots by defendants, election board and supervisor, resulted in plaintiff's loss of the election. Plaintiff sued defendants seeking invalidation of the absentee ballots and certification of the election results	counted unlawful absentee ballots that lacked postmarks, were not signed or notarized, were in unsealed and/or torn envelopes, and were in envelopes containing more than one ballot. Prior to tabulation of the absentee ballots, plaintiff was leading intervenor for the final senate position, but the absentee ballots entitled intervenor to the position. The court held that plaintiff was not entitled to relief since he failed to			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
				tabulated without such ballots.	establish that the alleged absentee voting irregularities would require invalidation of a sufficient number of ballots to change the outcome of the election. While the unsealed ballots constituted a technical violation, the outer envelopes were sealed and thus substantially complied with election requirements. Further, while defendants improperly counted one ballot where a sealed ballot			

EAC Voting Fraud-Voter Intimidation Preliminary Research  
Absentee Balloting Cases

Name of Case	Court	Citation	Date	Facts	Holding	Statutory Basis (if of Note)	Other Notes	Should the Case be Researched Further
					envelope and a loose ballot were in the same outer envelope, the one vote involved did not change the election result. Plaintiff's other allegations of irregularities were without merit since ballots without postmarks were valid, ballots without signatures were not counted, and ballots without notarized signatures were proper. Request for declaratory and injunctive relief denied.			
Townson v. Stonicher	Supreme Court of Alabama	2005 Ala. LEXIS	December 9, 2005	The circuit court	The voters and the incumbent all	No	N/A	No

011047